

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

DALE W. ADAMS and
CYNTHIA LONG ADAMS,

Plaintiffs,

v.

Civil Action: 3:06-CV-65
(Judge Bailey)

RUSH TRUCKING CORPORATION,
a corporation,
and DENNIS LEE GILKINSON,

Defendants.

**ORDER CONFIRMING PRONOUNCED ORDER OF THE COURT DENYING
PLAINTIFF'S MOTION TO COMPEL AS MOOT, SETTING A BRIEFING SCHEDULE
AND HEARING FOR AN ADDITIONAL MOTION TO COMPEL IF NECESSARY,
AND SETTING A BRIEFING SCHEDULE AND OPPORTUNITY TO BE HEARD
REGARDING REASONABLE EXPENSES**

On August 3, 2007, came Plaintiffs, by David M. Goldenberg, in person, and Defendant, by Macel E. Rhodes, in person, for Plaintiffs' motion to compel (docket 102). At the time Plaintiffs filed the motion, they had not received any response to the discovery requests at issue. It was noted at the hearing that responses were later served. The motion to compel is therefore DENIED AS MOOT. Counsel for Plaintiffs stated at the hearing he did not find the responses adequate. The Court ordered that if Plaintiffs wish to further pursue a motion to compel based on inadequate responses, they must file a motion by Friday, August 10, 2007. Defendant shall file any brief in opposition by Thursday, August 16, 2007. The Court will hold an evidentiary hearing and argument on Friday, August 17, 2007, at 2:00 p.m.

The Court notes that in the motion to compel Plaintiffs moved for reasonable expenses. Plaintiffs shall file an affidavit of their reasonable expenses, along with any brief in support they

wish to submit, by Friday, August 10, 2007. Defendant shall submit any brief in opposition to reasonable expenses it wishes to file by Thursday, August 16, 2007. The Court will give Defendant an opportunity to be heard on why reasonable expenses should not be granted on Friday, August 17, 2007, at 2:00 p.m. Both parties may attend this hearing by telephone under the conditions set out in the Court's previous order (docket 106).

IT IS SO ORDERED.

Any party may, within ten (10) days after being served with a copy of this Order, file with the Clerk of the Court written objections identifying the portions of the Order to which objection is made, and the basis for such objection. A copy of such objections should also be submitted to the District Court Judge of Record. Failure to timely file objections to the Order set forth above will result in waiver of the right to appeal from a judgment of this Court based upon such Order.

Filing of objections does not stay this order. Filing a motion to stay this order does not stay this order. In the absence of an order from the district court staying this order, all parties must comply with this order in a timely fashion as set forth herein.

DATED: August 3, 2007

/s/ James E. Seibert
JAMES E. SEIBERT
UNITED STATES MAGISTRATE JUDGE